

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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UNITED STATES OF AMERICA,

-v-

LAWRENCE RAY,

Defendant.

20-cr-110 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

The defense has requested a charge with respect to the tax evasion charges in the Indictment. Under Section 104(a)(2) of the Internal Revenue Code, gross income does not include the amount of any damages received (whether by suit or agreement) on account of personal injuries or sickness. There has been testimony that Claudia Drury paid the proceeds of her prostitution activity to the defendant because of the allegation that she had poisoned the defendant. The Court also expects to receive testimony on Monday that the defendant was advised by a Glenn Ripa, Esq., that payments made for settlement of a tort claim alleging personal injury are not taxable. The defense has argued that Section 104(a)(2) and Mr. Ripa's testimony go both to whether a substantial tax was due and to the issue of willfulness. The Court already has concluded that Mr. Ripa's testimony would go to willfulness. The Court has ordered letters on the charge by 5:00 p.m. today.

In addition to other issues the parties deem to be relevant, the Court invites the parties to address the following issues: (1) whether, in order for payments to be made in accord with a settlement of a claim for personal injury or sickness, the settlement agreement needs to satisfy all of the elements for a contract under common law (including offer and acceptance and agreement on the material terms in satisfaction of the claim of injury); (2) whether there is evidence in the record that would support a finding by the jury that such an agreement existed where the testimony of Ms. Drury was that the demands for money continued and kept on increasing and that the defendant was never satisfied with what she was paying; and (3) whether even if there was such an agreement, the jury would have to find that it was negotiated in good faith and at arm's length.

SO ORDERED.

Dated: April 2, 2022
New York, New York



LEWIS J. LIMAN
United States District Judge